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5 Attorneys for Defendant  
**MATSON NAVIGATION COMPANY**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11 DANIEL MAXIE, ) Case No. C 04-02255 MMC  
12 Plaintiff, )  
13 vs. )  
14 HORIZON LINES, LLC and MATSON )  
NAVIGATION COMPANY )  
15 )  
16 Defendants. )  
\_\_\_\_\_  
)

18 For the reasons set forth below, the parties to the above-entitled action stipulate, agree  
19 and request the court continue the dates currently set for expert designation, expert discovery and  
20 the date to complete private mediation.

21 The parties had previously agreed to defer the continued deposition of plaintiff until his  
22 condition was permanent and stationary. Mr. Maxie is still undergoing medical tests and  
23 consultations. Defendants are currently awaiting results and reports from recent tests.  
24 Defendants have scheduled an independent medical examination and further deposition of  
25 plaintiff Daniel Maxie with the understanding that the test results and report are going to be  
26 available. Defendants have also re-noticed plaintiff's further deposition for October after the  
27 IME.

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The parties also wish to participate in meaningful settlement discussions. The current mediation cut-off is November 1, 2006. The parties have agreed to a private mediator, Jerry Spolter, and had previously scheduled a mediation for October 10, 2006. Given the anticipated IME of plaintiff and plaintiff's further deposition, the parties cannot meaningfully participate in settlement discussions before the current cut-off date. Defendants will not be able to review the IME report and depose plaintiff in time to mediate on October 10, 2006, and so the parties agreed to continue the mediation until December 6, 2006.

Because of the expense involved in mediation and also in the retention and designation of experts, the parties seek to continue expert disclosure and expert discovery until after the mediation has been conducted.

11 Accordingly, the parties stipulate and respectfully request that the following pretrial dates  
12 be continued as follows:

13	Expert disclosure & reports (Present Date: November 1, 2006)	December 22, 2006
14	Expert Discovery cut-off (Present date: December 15, 2006)	January 15, 2007
15	Private mediation completion (Present date: November 1, 2006)	December 8, 2006

The parties do not seek continuance of any of the other dates set forth on the Third Amended Pretrial Preparation Order entered on March 16, 2006.

Respectfully Submitted,

## BANNING MICKLOW & BULL LLP

By: S/ EDWARD M. BULL III  
Edward M. Bull III  
Attorneys for Plaintiff  
DANIEL MAXIE

Dated: September 22, 2006 **LAW OFFICES OF HARVEY I. WITTENBERG**

By: S/ HARVEY I. WITTENBERG  
Harvey I. Wittenberg  
Attorneys for Defendant  
**HORIZON LINES, LLC**

1 Dated: September 22, 2006

FLYNN DELICH & WISE

2 By: S/ JAMES B. NEBEL

James B. Nebel

3 Attorneys for Defendant

U.S. SHIP MANAGEMENT, INC.

4

5 Dated: September 22, 2006

GIBSON ROBB & LINDH LLP

6 By: S/ JENNIFER T. SANCHEZ

7 Jennifer Tomlin Sanchez

8 Attorneys for Defendant

MATSON NAVIGATION COMPANY

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10 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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12 DATED: September 25, 2006

  
13 UNITED STATES DISTRICT JUDGE  
14 MAXINE M. CHESNEY

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